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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EVERETT HOGGE and PRISCILLA
HOGGE,

Plaintiffs,

vs.

A.W. CHESTERTON COMPANY, *et al.*

Defendants.

) Case No.: C07 2873 MJJ
)
) **DECLARATION OF DEBORAH R.**
) **ROSENTHAL IN SUPPORT OF**
) **PLAINTIFFS' MOTION FOR COSTS**
) **AND EXPENSES INCURRED AS A**
) **RESULT OF REMOVAL**
)
)

) [28 U.S.C. § 1447(c); ND CA Local Rules 7-2 & 7-8]
)
)
) Hearing Date: July 24, 2007
) Time: 9:30 a.m.
) Courtroom: 11, 19th Floor
) Judge: Hon. Martin J. Jenkins
)

J. DEBORAH R. ROSENTHAL, declare as follows:

1. I am an attorney admitted to practice law before this Court and all the courts of the State of California and am an associate of PAUL, HANLEY& HARLEY, LLP, attorneys of record for plaintiff herein. The matters stated herein are true to my own personal knowledge, except as otherwise stated. If called upon as a witness, I could and would testify to the following facts.

2. I was admitted to practice law in 1996. My professional activities have primarily involved personal injury litigation. Since April 2005, the focus of my work has been on legal

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1 research and writing of motions, briefs, and memoranda for asbestos personal injury and
 2 wrongful death cases in litigation, trial, and appeals.

3 3. Plaintiff EVERETT HOGGE, 65 years old, is presently dying from mesothelioma,
 4 an incurable cancer caused by asbestos. Attached hereto as **Exhibit 1** is a true and correct copy
 5 of the Declaration of David H. Harpole, Jr., In Support of Trial Preference, filed in *Everett*
 6 *Hogge and Priscilla Hogge v. A. W. Chesterton Co., et. al.*, San Francisco Superior Court Case
 7 No. 452846.

8 4. On June 2, 2006, Mr. HOGGE and his wife PRISCILLA filed a personal injury
 9 and loss of consortium action in the Superior Court of the State of California, County of San
 10 Francisco, against JOHN CRANE INC. ("JOHN CRANE") and 50 other defendants, alleging
 11 that the products and activities of the defendants exposed MR. HOGGE to asbestos and thereby
 12 caused his injuries. No federal law is involved. Attached hereto as **Exhibit 2** is a true and
 13 correct copy of the caption pages of Plaintiffs' Complaint for Personal Injury and Loss of
 14 Consortium – Asbestos, filed on June 2, 2006, in the Superior Court of the State of California,
 15 County of San Francisco.

16 5. At approximately 4:30 p.m. on Friday, June 1, 2007, Dean Hanley of this office
 17 informed me that JOHN CRANE INC. had filed a Notice of Removal effecting removal of
 18 *Everett Hogge and Priscilla Hogge v. A.W. Chesterton Co., et. al.*, San Francisco Superior Court
 19 Case No. 452846, to federal court. Attached hereto as **Exhibit 3** is a true and correct copy of
 20 JOHN CRANE's Notice of Removal. Because of the rapidly declining health of plaintiff Everett
 21 Hogge, and because plaintiffs had begun presenting their case to the jury in the state court action,
 22 we determined to file Plaintiffs' Motion for Remand as soon as possible and to attempt to have
 23 the motion heard on an expedited basis.

24 6. I telephoned Thomas French, counsel for JOHN CRANE INC., and left a
 25 voicemail message notifying him that we intended to file a Motion for Remand and asking if he
 26 would stipulate on defendant's behalf to an accelerated hearing schedule. When Mr. French
 27 returned my call, he asked what I had in mind as an expedited schedule. I told him that I

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1 intended to have plaintiffs' remand motion filed and served on Monday, June 4, 2007, and that in
 2 the past we had requested an accelerated hearing date but allowed defendant the full amount of
 3 time to oppose our motion. I further stated that I was unsure at that time what we intended to do
 4 in the *Hogge* matter. As it was after 5:00 p.m. on Friday, Mr. French told me to prepare a draft
 5 stipulation that he could discuss with his fellow defense counsel. I asked him if he would be
 6 willing to reply no later than noon on Monday, June 4, 2007, and he agreed. I then prepared a
 7 draft stipulation and cover letter that I emailed to Mr. French and began work on Plaintiffs'
 8 Motion for Remand.

9 7. On June 1, 2007, I spent approximately three hours meeting and conferring with
 10 Philip Harley, Dean Hanley, Stephen Healy, and with defense counsel Thomas French regarding
 11 the removal and remand petitions and briefing and hearing schedule; preparing a draft stipulation
 12 regarding an expedited briefing and hearing schedule; and researching facts and law in
 13 preparation for Plaintiffs' Motion for Remand and for Order Shortening Time.

14 8. On June 2 and June 3, 2007, I spent approximately 8 hours researching,
 15 marshaling facts and evidence, and writing Plaintiffs' Motion for Remand.

16 9. Attached hereto as **Exhibit 4** is a true and correct copy of the Declaration of Dean
 17 A. Hanley In Support of Plaintiffs' Motion for Remand and Exhibits A – D thereto.

18 10. On June 4, 2007, I engaged in further meet and confer discussions via telephone
 19 and email with Mr. French, in which Mr. French informed me that defendant was unwilling to
 20 agree to my proposed expedited briefing schedule, and I drafted Plaintiffs' Motion for Order
 21 Shortening Time. I spent approximately 4 hours on June 4, 2007, in these endeavors. Attached
 22 hereto as **Exhibit 5** is a true and correct copy of my meet and confer email correspondence with
 23 defense counsel Thomas French in regard to the stipulation and motion for order shortening time.

24 11. From June 5, 2007, to June 7, 2007, I spent approximately three hours meeting
 25 and conferring with Philip Harley and Stephen Healy of this office regarding the removal and
 26 remand matters, the matter of plaintiffs' Request for Intervention of Duty Judge, and tracking the
 27 status and progress of the motions at the federal court. Attached hereto as **Exhibit 6** is a true and

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1 correct copy of the Billing History Report from the PACER electronic filing and tracking
 2 system, showing costs incurred by plaintiffs in this action from June 1, 2007, through June 13,
 3 2007, for tracking and downloaded filings arising out of JOHN CRANE's removal of this action.

4 12. Because defendant declined to proceed before Magistrate Judge Elizabeth
 5 LaPorte, to whom this case was initially assigned, this case was reassigned to Judge Martin
 6 Jenkins on June 7, 2007. Judge Jenkins granted Plaintiffs' Motion for an Order Shortening Time
 7 that same day and established an expedited briefing and hearing schedule for Plaintiffs' Motion
 8 for Remand. Attached hereto as **Exhibit 7** is a true and correct copy of the Court's Order
 9 Granting Plaintiffs' Motion for Order Shortening Time.

10 13. Counsel for JOHN CRANE filed its Opposition to Plaintiffs' Motion for Remand
 11 on June 8, 2007, and I prepared and filed Plaintiffs' Reply that same day. I spent approximately
 12 3.5 hours meeting and conferring with Philip Harley and Stephen Healy and preparing Plaintiffs'
 13 Reply on June 8, 2007.

14 14. Plaintiffs' Motion to Remand was granted by this Court on June 8, 2007.
 15 Attached hereto as **Exhibit 8** is a true and correct copy of this Court's Order Granting Plaintiffs'
 16 Motion to Remand.

17 15. Between June 11, 2007, and June 18, 2007, I spent approximately 10 hours
 18 researching, marshaling facts and evidence, and writing Plaintiffs' Motion for Costs and
 19 Expenses Incurred As A Result of Removal and meeting and conferring with Philip Harley,
 20 Dean Hanley, Stephen Healy, and Mark Abelson with regard to this motion.

21 16. My hourly rate is \$325 per hour.

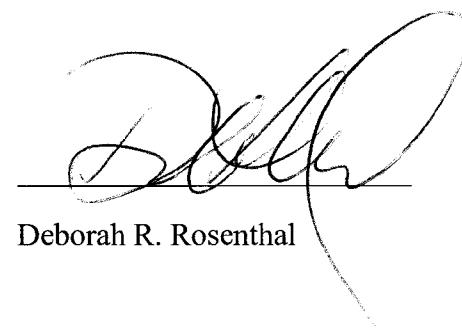
22 17. Attached hereto as **Exhibit 9** is a true and correct copy the Virginia State
 23 Corporation Commission's record showing that Hopeman Brothers, Inc., incorporated in the
 24 State of Virginia on February 1, 2007. In Spring 2007, I engaged in meet and confer discussions
 25 with counsel for Hopeman Brothers, Inc., with regard to a removal by Hopeman Brothers and
 26 plaintiffs' remand motion in the case of *Gene Murray and Anna Marie Murray v. A.W.*
 27 *Chesterton Co., et. al.*, U.S. District Court for the Northern District of California, Oakland

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1 Division, Case No. C 07 0843 WDB. During the course of those discussions, Hopeman's
2 counsel confirmed that Hopeman Brothers, Inc., had recently re-incorporated in the State of
3 Virginia.

4 I declare under the penalty of perjury under the laws of the State of California and of the
5 United States of America that the foregoing is true and correct. Executed on June 18, 2007, in
6 Berkeley, California.

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10 Deborah R. Rosenthal
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